

The Honorable James L. Robart

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STARK, *et al.*

Plaintiffs,

v.

THE SEATTLE SEAHAWKS, FOOTBALL,
NORTHWEST, LLC, *et al.*,

Defendants.

Case No. CV06-1719 JLR

DECLARATION OF PAUL A.
AINSWORTH IN SUPPORT OF
THE SEAHAWKS DEFENDANTS'
MOTION FOR LEAVE TO FILE
A MOTION FOR SUMMARY
JUDGMENT WITHIN 90 DAYS OF
THE TRIAL DATE

I, Paul A. Ainsworth, declare as follows:

1. I am an attorney admitted to practice *pro hac vice* in the United States District Court for the Western District of Washington. I am associated with the firm of Covington & Burling LLP. My firm represents defendants the Seattle Seahawks, Football Northwest, LLC, and First & Goal, Inc. in the above-captioned matter.

2. I am familiar with the matters set forth herein and make this declaration on personal knowledge and belief.

Declaration of Paul A. Ainsworth in Support of
the Seahawks Defendants Motion for Leave to
File a Motion for Summary Judgment Within 90
Days of the Trial Date

Case No. CV06-1719 JLR

COVINGTON & BURLING LLP
1201 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20002
TEL: 202.662.6000 FAX: 202.662.6291

1 3. Attached hereto as Exhibit 1 is a true and correct copy of letter dated
2 May 3, 2007, from Paul Ainsworth to Chris Wion.

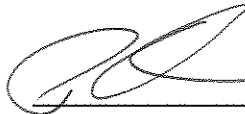
3 4. Attached hereto as Exhibit 2 is a true and correct copy of an email dated
4 May 9, 2007, sent by Tim Leyh to Paul Ainsworth, Chris Wion, John Dunbar, Tim Filer,
5 Garth Wojtanowicz, and Linda Bledsoe.
6

7 5. Attached hereto as Exhibit 3 is a true and correct copy of excerpts of the
8 April 26, 2007 Deposition of Fred Stark.

9 6. Attached hereto as Exhibit 4 is a true and correct copy of excerpts of the
10 April 26, 2007 Deposition of Kathleen Stark.

11 7. Attached hereto as Exhibit 5 is a document entitled the Seahawks
12 Defendants' Motion for Summary Judgment (Consent) and the accompanying Declaration of
13 Paul A. Ainsworth in Support of the Seahawks Defendants Motion for Summary Judgment
14 (Consent).
15

16 I declare under penalty of perjury that the foregoing is true and correct.
17

18 
19 _____
20 Paul A. Ainsworth

21 Executed on: May 11, 2007
22
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27

28 Declaration of Paul A. Ainsworth in Support of
the Seahawks Defendants Motion for Leave to
File a Motion for Summary Judgment Within 90
Days of the Trial Date

COVINGTON & BURLING LLP
1201 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20002
TEL: 202.662.6000 FAX: 202.662.6291

EXHIBIT 1

COVINGTON & BURLING LLP

1201 PENNSYLVANIA AVENUE NW WASHINGTON
WASHINGTON, DC 20004-2401 NEW YORK
TEL 202.662.6000 SAN FRANCISCO
FAX 202.662.6291 LONDON
WWW.COV.COM BRUSSELS

PAUL A. AINSWORTH
TEL 202.662.5416
FAX 202.778.5416
PAINSWORTH@COV.COM

May 3, 2007

BY ELECTRONIC MAIL

Christopher Wion
Danielson Harrigan Leyh & Tollefson
999 Third Avenue, Suite 4400
Seattle, WA 98104

Re: Stark v. Seattle Seahawks et al., Case No. 06CV-1719 (JLR)

Dear Chris:

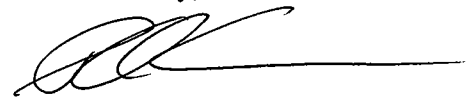
In order to secure injunctive relief, the only relief sought by the complaint, plaintiffs must demonstrate, among other things, that they did not and will not voluntarily consent to the challenged pat-downs. In light of your clients' deposition testimony last week, we do not see how they can make such a showing. See April 26, 2007 Deposition of Fred Stark Tr. 77:24 - 78:11, 79:1-7; April 26, 2007 Deposition of Kathleen Stark Tr. 35:7-10, 36:25 - 37:2, 58:12-19. Accordingly, we encourage you to dismiss the complaint; if that happens, the Seahawks are prepared to refund the amount paid by your clients for their 2007 season tickets.

If plaintiffs are unwilling to dismiss the complaint, we believe that the most efficient means for resolution of the consent issue is by summary judgment. We therefore request that plaintiffs concur in our request for leave to proceed with such a motion on the following schedule:

- May 10, 2007 Seahawks' Defendants' Motion for Summary Judgment (Consent)
- May 21, 2007 Plaintiffs' Opposition
- May 25, 2007 Noted Date and Reply Brief Due

Please advise us no later than close of business Monday, May 7, whether plaintiffs will agree to either (a) a stipulated dismissal of the complaint or (b) concurrence in our request for leave to proceed with a summary judgment motion on the schedule set forth above.

Sincerely,



Paul A. Ainsworth

cc: John Dunbar, Esq.
Tim Filer, Esq.

EXHIBIT 2

Ainsworth, Paul

From: Tim Leyh [timl@dhl.com]
Sent: Wednesday, May 09, 2007 7:30 PM
To: Ainsworth, Paul; Chris Wion
Cc: Dunbar, John; filel@foster.com; Garth Wojtanowicz; Linda Bledsoe
Subject: RE: Stark/Seahawks

Paul,

Chris is in a deposition and he and I need to discuss this before we get back to you with a definitive response. If you in fact need a response today, then it is that the dispositive motions cut-off has passed and we are not inclined to agree to extend it for purposes of this motion, which we believe to be unfounded and a waste of the parties' time and money. That said, Chris and I will talk tomorrow and if after doing so we have a different view, we will so advise.

-----Original Message-----

From: Ainsworth, Paul [mailto:PAinsworth@cov.com]
Sent: Wednesday, May 09, 2007 2:48 PM
To: Chris Wion
Cc: Dunbar, John; filel@foster.com; Garth Wojtanowicz; Tim Leyh
Subject: RE: Stark/Seahawks

Chris: May we have your answer today, please?

From: Chris Wion [mailto:chrisw@dhl.com]
Sent: Friday, May 04, 2007 2:40 PM
To: Ainsworth, Paul
Cc: Dunbar, John; filel@foster.com; Garth Wojtanowicz; Tim Leyh
Subject: RE: Stark/Seahawks

Paul,

We are considering your proposal and will get back to you early next week.

-Chris

-----Original Message-----

From: Ainsworth, Paul [mailto:PAinsworth@cov.com]
Sent: Thursday, May 03, 2007 7:26 PM
To: Chris Wion
Cc: Dunbar, John; filel@foster.com
Subject: Stark/Seahawks

Chris,

Attached please find my letter dated May 3, 2007.

Paul

<<5-3-07 Ainsworth ltr to Wion.pdf>>

.....
Paul A. Ainsworth
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

5/10/2007

(c) 202.662.5416

(f) 202.778.5416

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EXHIBIT 3

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FRED and KATHLEEN STARK, a
married couple,

Plaintiffs,

vs.

THE SEATTLE SEAHAWKS, FOOTBALL
NORTHWEST, LLC, a Washington
limited liability company,
FIRST & GOAL, INC., a Washington
corporation, THE WASHINGTON
STATE PUBLIC STADIUM AUTHORITY,
a Washington municipal
corporation, and LORRAINE HINE,
in her capacity as chair of the
Washington State Public Stadium
Authority board of directors,

Defendants.

ORIGINAL

No. CV06-1719 JLR

Deposition Upon Oral Examination Of
FREDERICK B. STARK

8:55 a.m.

April 26, 2007

1111 Third Avenue, Suite 3200
Seattle, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

1 Q. Is there anyone besides your wife that you
2 know that regularly attends Seahawks games at Qwest
3 Field?

4 A. No.

5 Q. When did you first learn about the pat-down
6 policy at Qwest Field?

7 A. It would have been a preseason game in 2005,
8 probably August.

9 Q. Did you learn prior to attending that game
10 in August 2005 that there would be pat-downs at the
11 Seahawks game?

12 A. No.

13 MR. WION: And I object to the extent that
14 that mischaracterizes his prior testimony.

15 Q. How did you learn about the pat-down policy
16 at Qwest Field?

17 A. I was there and there was a pat-down policy.

18 Q. Did you see any signs when you came to Qwest
19 Field?

20 A. I did not.

21 Q. Do you read the newspaper, sir?

22 A. I do.

23 Q. Do you recall seeing press coverage
24 announcing there would be pat-downs at Qwest Field?

25 A. No.

1 objection, but that's fine.

2 Q. Go ahead.

3 A. I'm sorry, what was the question?

4 (Reporter read back as requested.)

5 A. In reference to attending Seahawks games, I
6 don't know.

7 Q. Do you think you would have remembered that
8 if that had happened?

9 A. Probably not.

10 Q. You don't think you'd remember if you were
11 patted down by someone carrying a badge or a gun?

12 MR. WION: Objection, asked and answered.

13 Q. You can answer.

14 A. My answer is the same.

15 Q. Has any pat-down screener ever threatened to
16 use force to search you, sir?

17 A. No.

18 Q. Has anyone threatened you with criminal
19 sanctions if you did not consent to the search?

20 A. No.

21 Q. Have you ever contacted the Seattle Seahawks
22 regarding the pat-down policy?

23 A. I have.

24 Q. When did you contact them?

25 A. I do not recall the date.

1 Q. And what did you consider at that time, sir?

2 A. Well, whether it was going to be a game
3 worth seeing. Whether it was worth going to tolerate
4 the pat-down procedure. Yeah.

5 Q. At that time, sir, did you understand you
6 had a choice to not attend the football game?

7 A. Yes.

8 Q. And you understand you made the choice to
9 attend the football game?

10 A. Yes.

11 Q. And you understand that by making that
12 choice you would be patted down?

13 MR. WION: Object to the form.

14 A. No.

15 Q. Why didn't you understand that, sir?

16 A. Because there had been times I have not been
17 patted down.

18 Q. On how many occasions were you not patted
19 down, sir, prior to the start of the 2005 season?

20 A. I'm sorry, prior to the start of the 2005
21 season --

22 Q. I'm sorry, I asked the wrong question.

23 After the start of the 2005 season, on how
24 many occasions have you attended a Seahawks game where
25 you have not been patted down?

1 MR. WION: Objection, mischaracterizes his
2 testimony. Objection to form.

3 A. Do I agree that my consent was voluntary, is
4 that the question I heard?

5 Q. No.

6 MR. AINSWORTH: Would you reread the
7 question.

8 (Reporter read back as requested.)

9 MR. WION: Same objection.

10 A. Involuntary.

11 No.

12 Q. So, Mr. Stark, do you agree with me that
13 when you attended the Seattle Seahawks games over the
14 last two seasons, knowing of the pat-down procedures,
15 that your consent to those pat-down procedures was
16 voluntary?

17 MR. WION: Objection to the form,
18 mischaracterizes prior testimony.

19 A. I'm sorry, just -- could you repeat the
20 question?

21 (Reporter read back as requested.)

22 MR. WION: Same objections.

23 A. Beyond my counsel's objections, I would have
24 to say yes, or including his objections, or whatever
25 that all is.

1 Q. And sir, if you decide to attend Seattle
2 Seahawks games in the future, and pat-down is a
3 requirement of attending those games, do you agree
4 with me that your consent to those pat-downs will be
5 voluntary?

6 MR. WION: Objection to the form.

7 A. Yes.

8 MR. AINSWORTH: John?

9 I have no further questions. Mr. Dunbar
10 will have some for you.

11 E-X-A-M-I-N-A-T-I-O-N

12 BY MR. DUNBAR:

13 Q. Mr. Stark, my name is John Dunbar, and I
14 represent the Public Stadium Authority and Lorraine
15 Hine.

16 Have you ever seen Ms. Hine's declaration in
17 this case?

18 A. Possibly. I'm...

19 MR. DUNBAR: Why don't you go ahead and mark
20 that as our next one.

21 (Exhibit-45 marked.)

22 Q. You've been handed a copy of Exhibit-45,
23 correct?

24 A. Yes.

25 Q. And that is the declaration of Lorraine

Frederick Stark

April 26, 2007

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Keri A. Aspelund

I declare under penalty of perjury under
the laws of the State of Washington that I have read
my within deposition, and the same is true and
accurate, same and except for changes and/or
corrections, if any, as indicated by me on the CHANGE
SHEET flyleaf page hereof. Signed in.....,
WA, on the.....day of....., 2007.

.....
FREDERICK B. STARK

Taken: April 26, 2007

C-E-R-T-I-F-I-C-A-T-E

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

I, the undersigned Registered
Professional reporter and an officer of the Court
under my commission as a Notary Public for the State

of washington, hereby certify that the deposition upon
oral examination was taken before me and transcribed
under my direction;

That each witness was duly sworn by me to
testify truthfully; that the transcript of the
deposition is a full, true, and correct transcript;
that I am neither attorney for, nor a relative or
employee of, any of the parties to the action or any
attorney or counsel employed by the parties hereto,
nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set
my hand and seal this 30 day of April, 2007.



/S/ KERI A. ASPELUND

Keri A. Aspelund
NOTARY PUBLIC in and for the State of
Washington, residing at Tacoma. Commission
expires March 21, 2010. CCR No. 2661

EXHIBIT 4

Frederick Stark

April 26, 2007

Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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married couple,

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limited liability company,
FIRST & GOAL, INC., a Washington
corporation, THE WASHINGTON
STATE PUBLIC STADIUM AUTHORITY,
a Washington municipal
corporation, and LORRAINE HINE,
in her capacity as chair of the
Washington State Public Stadium
Authority board of directors,

Defendants.

ORIGINAL

No. CV06-1719 JLR

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1111 Third Avenue, Suite 3200
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21 Q. Do you read the newspaper, sir?

22 A. I do.

23 Q. Do you recall seeing press coverage
24 announcing there would be pat-downs at Qwest Field?

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11 patted down by someone carrying a badge or a gun?

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14 A. My answer is the same.

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16 use force to search you, sir?

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12 choice you would be patted down?

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12 BY MR. DUNBAR:

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16 Have you ever seen Ms. Hine's declaration in
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19 MR. DUNBAR: Why don't you go ahead and mark
20 that as our next one.

21 (Exhibit-45 marked.)

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Frederick Stark

April 26, 2007

Page 118

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Keri A. Aspelund

I declare under penalty of perjury under
the laws of the State of Washington that I have read
my within deposition, and the same is true and
accurate, same and except for changes and/or
corrections, if any, as indicated by me on the CHANGE
SHEET flyleaf page hereof. Signed in.....,
WA, on the.....day of....., 2007.

.....
FREDERICK B. STARK

Taken: April 26, 2007

C-E-R-T-I-F-I-C-A-T-E

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

I, the undersigned Registered
Professional reporter and an officer of the Court
under my commission as a Notary Public for the State

of washington, hereby certify that the deposition upon
oral examination was taken before me and transcribed
under my direction;

That each witness was duly sworn by me to
testify truthfully; that the transcript of the
deposition is a full, true, and correct transcript;
that I am neither attorney for, nor a relative or
employee of, any of the parties to the action or any
attorney or counsel employed by the parties hereto,
nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set
my hand and seal this 30 day of April, 2007.



/S/ KERI A. ASPELUND

Keri Aspelund
NOTARY PUBLIC in and for the State of
Washington, residing at Tacoma. Commission
expires March 21, 2010. CCR No. 2661

Exhibit 5

Consists of the following attached documents:

- Seahawks Defendants Motion for Summary Judgment and Memorandum of Authorities (Consent)
- Declaration of Paul A. Ainsworth in Support of Motion for Summary Judgment (Consent)
- Proposed Order Granting Seahawks Defendants Motion for Summary Judgment